

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the Class III)	
Certification to Conduct Gambling Activities of:)	No. CR 2010-00765
)	
Anita M. Smith)	
Marysville, Washington,)	NOTICE OF ADMINISTRATIVE
)	CHARGES AND OPPORTUNITY FOR
Class III Employee.)	AN ADJUDICATIVE PROCEEDING
)	

I.

The Washington State Gambling Commission issued Anita M. Smith the following Certification:¹ Number 69-03515, authorizing Class III Employee Activity with the Tulalip Tribe.

This certification expires on September 9, 2010, and was issued subject to the certified employee's compliance with state gambling laws and regulations.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the certified employee with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230, and the Tulalip Tribal/State Compact:

- 1) On or about January 30, 2010, Tulalip Tribal Gaming Agents observed Anita M. Smith, while dealing blackjack, signal with her right index finger three different times, indicating to a player to surrender his blackjack hand.
- 2) The following is a summary of the Surveillance Report of the January 30, 2010, incident:
 - A player placed a ten dollar double bet and then received a card, which gave his hand a total of thirteen.
 - Ms. Smith made a "surrender" signal by scrapping her finger left to right in front of her chip tray three times.
 - The player then made the same "surrender" motion, and Ms. Smith pushed back the ten dollar double bet to the player.
 - The hand played out and the player's hand lost.
 - If the player had not had his ten dollar double bet returned to him, the player would have lost twenty dollars instead of ten.

¹ Class III Certification is issued to employees working at tribal Casinos. The certification authorizes similar activities as the Card Room Employee (CRE) license issued to individuals working at commercial house-banked card rooms. By submitting a transfer form and fees, holders of a Class III Certification may convert their certification to a CRE license.

3) Ms. Smith's actions constitute "Cheating" under RCW 9.46.196(3) because she engaged in an act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator.

4) On January 30, 2010, when questioned about the finger gestures, Ms. Smith told Tulalip Tribal Gaming Agents that she was not providing assistance to players, but instead joking and playing around with the players.

5) The Tulalip Tribal Gaming Agency determined that Anita M. Smith, while dealing blackjack, made hand signals to players in an effort to help players win hands of blackjack. As a result, on February 16, 2010, Anita M. Smith's Tulalip Tribal Gaming License was revoked.

6) Because of her actions on January 30, 2010, and the revocation of her Tribal Gaming License, Ms. Smith poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, and she has failed prove, by clear and convincing evidence, that she is qualified for certification, in violation of RCW 9.46.153(1).

7) Therefore, grounds exist to revoke Anita M. Smith's Class III Employee certification under the Tulip Tribal/State Compact (5)(c), RCW 9.46.075(1) and (8), and WAC 230-03-085(1) and (8).

Tulalip Tribal/State Compact 5(c) states the State Gaming Agency² may revoke a State certification for any reason or reasons it deems to be in the public interest. These reasons shall include, but not be limited to, cases when a holder of a certification:

(The following subsections apply.)

(i) Has violated, failed or refused to comply with the provision, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the State Gaming Agency pursuant thereto, or any provision of a Tribal/State Compact, or when a violation of any provision of chapter 9.46 RCW, or any State Gaming Agency rule, or any provision of a Tribal/State Compact has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(vi) Fails to prove, by clear and convincing evidence, that she is qualified in accordance with the provisions of this Section.

(viii) Has had a Tribal license revoked in the preceding twelve months.

² Section 2(p) of the Tulalip Tribal/State Compact defines "State Gaming Agency" as the Washington State Gambling Commission.

RCW 9.46.075 Denial, suspension, or revocation of license, application, or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant, licensee, permit holder, or any person with any interest therein.

(The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter.

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, permit holder, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

RCW 9.46.196(3) Cheating — Defined.

"Cheating," as used in this chapter, means to engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator.

RCW 9.46.1961 Cheating in the first degree.

(1) A person is guilty of cheating in the first degree if he or she engages in cheating and:

(a) Knowingly causes, aids, abets, or conspires with another to engage in cheating; or
(b) Holds a license or similar permit issued by the state of Washington to conduct, manage, or act as an employee in an authorized gambling activity.

(2) Cheating in the first degree is a class C felony subject to the penalty set forth in RCW 9A.20.021. In addition to any other penalties imposed by law for a conviction of a violation of this section the court may impose an additional penalty of up to twenty thousand dollars.

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

Jurisdiction of this proceeding is based on the Tulalip Tribal/State Compact 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 5th day of August, 2010

Communications and Legal Department
Washington State Gambling Commission

D. E. Thompson on behalf of

 RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 5 day of AUGUST, 2010.

Michelle M. Fardes
NOTARY PUBLIC in and for the State of

Washington residing at LA 4

My Commission expires on June 16, 2013

